

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE MAY 5, 2011

AMENDED IN SENATE APRIL 28, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 29, 2011

SENATE BILL

No. 582

Introduced by Senator Emmerson

(Principal coauthor: Assembly Member Huffman)

February 17, 2011

An act to add and repeal Section 65081 of the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 582, as amended, Emmerson. Commute benefit policies.

Existing law requires transportation planning agencies to undertake various transportation planning activities, including preparation of a regional transportation plan. Existing law requires transportation planning agencies that are designated under federal law as metropolitan planning organizations to include a sustainable communities strategy as part of the regional transportation plan for their region. Existing law creates air quality management districts and air pollution control districts with various responsibilities relative to reduction of air pollution.

This bill, beginning on January 1, 2013, subject to certain exceptions, would authorize a metropolitan planning organization jointly with the local air quality management district or air pollution control district to adopt a commute benefit ordinance that requires covered employers operating within the common area of the organization and district with

a specified number of covered employees to offer those employees certain commute benefits. The bill would require that the ordinance specify certain matters, including any consequences for noncompliance, and would impose a specified reporting requirement. The bill would impose a requirement for all metropolitan planning organizations within the region served by a specified air district to jointly elect to adopt the ordinance together with the district. The bill would exclude from its provisions an air district with a trip reduction regulation initially adopted prior to the 1990 Federal Clean Air Act Amendments as long as it continues to have a regulation that allows trip reduction as a method of compliance. The bill would make its provisions inoperative on January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65081 is added to the Government Code,
2 to read:
3 65081. (a) It is the intent of the Legislature to encourage
4 metropolitan planning organizations and local air quality
5 management districts or air pollution control districts to work with
6 local employers to adopt policies that encourage commuting by
7 means other than driving alone.
8 (b) Notwithstanding Section 40717.9 of the Health and Safety
9 Code, and except as otherwise provided in subdivision (e), on or
10 after January 1, 2013, a metropolitan planning organization and a
11 local air quality management district or air pollution control district
12 with respect to the common area within their respective
13 jurisdictions may jointly adopt a commute benefit ordinance that
14 requires covered employers operating within the common area of
15 the organization and district to offer all covered employees one of
16 the following choices:
17 (1) A pretax option: a program, consistent with Section 132(f)
18 of the Internal Revenue Code, allowing covered employees to elect
19 to exclude from taxable wages employee commuting costs incurred
20 for transit passes or vanpool charges, or bicycle commuting, up to
21 the maximum amount allowed by federal tax law.
22 (2) Employer-paid benefit: a program whereby the covered
23 employer offers employees a subsidy to offset the monthly cost

1 of commuting via public transit or by vanpool. In 2013, the subsidy
2 shall be equal to either the monthly cost of commuting via transit
3 or vanpool, or seventy-five dollars (\$75), whichever is lower. This
4 amount shall be adjusted annually consistent with the California
5 Consumer Price Index.

6 (3) Employer-provided transit: transportation furnished by the
7 covered employer at no cost, or low cost as determined by the
8 metropolitan planning organization, to the covered employee in a
9 vanpool or bus, or similar multipassenger vehicle operated by or
10 for the employer.

11 *Nothing in this section shall prevent a covered employer from*
12 *offering a more generous commuter benefit that is otherwise*
13 *consistent with the requirements of the applicable commute benefit*
14 *ordinance.*

15 (c) An employer offering, or proposing to offer, an alternative
16 commuter benefit on the employer's own initiative, or an employer
17 otherwise required to offer an alternative commuter benefit as a
18 condition of a lease, original building permit, or other similar
19 requirement, if the alternative is not one of the options identified
20 in subdivision (b), may seek approval of the alternative from the
21 metropolitan planning organization. The metropolitan planning
22 organization may approve an alternative if it determines that the
23 alternative provides at least the same benefit in terms of reducing
24 single-occupant vehicle trips as any of the options in subdivision
25 (b). An employer that offers an approved alternative to covered
26 employees in a manner otherwise consistent with this section is
27 not required to offer one of the options in subdivision (b).

28 The commute benefit ordinance shall provide covered employers
29 with at least six months to comply after the ordinance is adopted.

30 (d) A commute benefit ordinance adopted pursuant to this
31 section shall specify all of the following: (1) how the implementing
32 agencies will inform covered employers about the ordinance, (2)
33 how compliance with the ordinance will be demonstrated, (3) the
34 procedures for proposing and the criteria that will be used to
35 evaluate an alternative commuter benefit pursuant to subdivision
36 (c), and (4) any consequences for noncompliance.

37 (e) In the region served by the air pollution control district
38 established pursuant to Chapter 5.7 (commencing with Section
39 40600) of Part 3 of Division 26 of the Health and Safety Code, a
40 commute benefit ordinance may be adopted pursuant to this section

1 only if it is jointly adopted by the district and by all eight
2 metropolitan planning organizations located wholly or partially in
3 that region.

4 (f) Nothing in this section shall limit or restrict the statutory or
5 regulatory authority of a metropolitan planning organization or an
6 air quality management district or air pollution control district.

7 (g) On or before July 1, 2016, a metropolitan planning
8 organization and an air quality management district or air pollution
9 control district that implement a commute benefit ordinance as
10 provided under this section shall submit a report to the
11 transportation policy committees of each house of the Legislature
12 that includes, but is not limited to, the following elements:

13 (1) A description of the program, including enforcement
14 procedures and any sanctions to be imposed on noncomplying
15 employers.

16 (2) Number of employers confirmed to have complied with the
17 ordinance that did not previously offer a commute benefit
18 consistent with those required by the ordinance.

19 (3) Number of employees who stopped driving alone to work
20 in order to take transit or a vanpool, or to commute by bicycle, as
21 a result of the commute benefit ordinance.

22 (4) Number of single-occupant vehicle trips reduced per month,
23 week, or day as a result of the commute benefit ordinance.

24 (5) Vehicle miles traveled (VMT) and greenhouse gas emission
25 reductions associated with implementation of the commute benefit
26 ordinance.

27 (6) Greenhouse gas emission reductions associated with
28 implementation of the commute benefit ordinance as a percentage
29 of the region's greenhouse gas emission target established by the
30 State Air Resources Board.

31 (7) Number of businesses that received a penalty for not
32 complying with the ordinance and a description of the penalties
33 imposed.

34 (h) An air district with a trip reduction regulation initially
35 adopted prior to the 1990 Federal Clean Air Act Amendments shall
36 be excluded from this section, as long as it continues to have a
37 regulation that allows trip reduction as a method of compliance.

38 (i) As used in this section, the following terms have the
39 following meanings:

1 (1) “Covered employer” means any employer for which an
2 average of 20 or more employees per week perform work for
3 compensation within the area where the ordinance adopted pursuant
4 to this section operates, except that a metropolitan planning
5 organization, at its option, may provide for the ordinance to apply
6 solely to employers with 50 or more employees otherwise meeting
7 the requirements of this paragraph. In determining the number of
8 employees performing work for an employer during a given week,
9 only employees performing work on a full-time basis shall be
10 counted.

11 (2) “Covered employee” means an employee who performed
12 at least an average of 20 hours of work per week within the
13 previous calendar month within the area where the ordinance
14 adopted pursuant to this section operates.

15 (j) This section shall remain in effect only until January 1, 2017,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2017, deletes or extends that date.